



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Myriam Rodriguez,
Fiscal Analyst (PS9801H),
Department of Health

Examination Appeal

CSC Docket No. 2020-1626

ISSUED: FEBRUARY 14, 2020 (SLK)

Myriam Rodriguez appeals the determination of the Division of Agency Services (Agency Services) that she did not meet the experience requirements for the promotional examination for Fiscal Analyst (PS9801H), Department of Health.

The subject examination was announced with a closing date of June 21, 2019. The education requirement was a Bachelor’s degree. The experience requirements were one year of experience in the collection, analysis, evaluation, and presentation of financial data used to provide an accurate accounting of administrative and operating costs, and the preparation of reports containing conclusions and recommendations for a private business or government agency. Applicants who did not possess the required education could substitute additional experience on a year for year basis with 30 semester hour credits being equal to one year of experience. The subject examination was cancelled on December 6, 2019 due to a lack of qualified applicants.

On her application, the appellant indicated that she possessed a high school diploma and no college credits. Additionally, personnel records indicate that she was provisionally serving in the subject title from October 2018 to the June 21, 2019 closing date, a Head Account Clerk from March 2011 to October 2018, a Principal Audit Account Clerk from March 2004 to March 2011, a Senior Clerk Typist from September 2001 to March 2004, a Clerk Typist from June 2000 to September 2001, and an Education and Support Services TES from September 1999 to June 2000. Agency Services credited the appellant with having nine months of experience based on her provisional service in the subject title, but determined that, per the substitution clause for education, she lacked four years and three months of experience.

On appeal, the appellant presents that she applied to the appointing authority's vacancy announcement and was provisionally appointed to the subject title after it determined that she met the requirements for this title. She lists the duties from the subject title's job specification and she explains why she believes that the duties she indicated on her resume correspond to the duties of the subject title. Additionally, the appellant submits a letter from the appointing authority's Director, Division of Management and Administration (Director), which states that the appellant has been successfully performing the required duties while serving provisionally in the subject title and she has been performing fiscal duties since 2012, including recording cost recover revenues, revenue conciliation between the Department of the Treasury and various systems, account receivables, data analysis, financial reporting, calculating rates for Medicare Part B and training staff.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional announcement by the closing date. Further, *N.J.A.C.* 4A:1-1.2(c) states that the Civil Service Commission (Commission) may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

In this matter, it is initially noted that Agency Services correctly determined that the appellant was not eligible for the subject examination. A review of the appellant's application, resume, and appeal indicate that although the appellant may have been performing some of the required duties prior to her provisional service in the subject title, her primary duties in prior titles involved billing, accounting related clerical duties and other clerical duties and not fiscal analysis and the preparation of reports containing conclusions and recommendations. In order for experience to be considered applicable, it must have as its primary focus full-time responsibilities in the areas required in the announcement. *See In the Matter of Bashkim Vlashi* (MSB, decided June 9, 2004). Further, it is well settled that a provisional employee, whether provisional for one day, one year or seven years, does not have a vested right to a permanent position. While the requirements of *N.J.S.A.* 11A:4-13b allow for an appointing authority to certify that an appointee meets the minimum qualifications for the title at the time of appointment, the fact that an appointing authority erroneously determined that a provisional appointee satisfies the minimum qualifications for the title prior to an actual eligibility determination by this agency, does not automatically establish a presumption of eligibility when the examination is announced. *See In the Matter of Cynthia Bucchi, Maria D'Angelo, Rosalind R. James, Carla M. Lewis, and Rhonda McLaren, Management Assistant (PS5831F), Department of Education*, Docket No. A-1266-04T2 (App. Div. February 27, 2006).

However, it cannot be ignored that the appellant did perform fiscal analysis duties as far back as 2012 as confirmed by the appointing authority's Director.

Additionally, the Director confirms that the appellant's background has enabled her to successfully perform the required duties while serving provisionally in the subject title. Moreover, the appellant was the only employee to apply for the subject examination and the examination has been cancelled due to a lack of qualified candidates. Therefore, the Civil Service Commission finds good cause under *N.J.A.C.* 4A:1-1.2(c) to relax the provisions of *N.J.A.C.* 4A:4-2.6(a) and accept the totality of the appellant's fiscal analysis experience, for eligibility purposes only, and admit her to the subject examination.

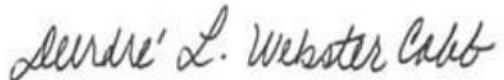
This determination is limited to the instant matter and does not provide precedent in any other matter.

ORDER

Therefore, it is ordered that the appeal be granted, the cancellation of the examination be rescinded and Myriam Rodriguez's application be processed for prospective employment opportunities only.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 12th DAY OF FEBRUARY, 2020



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